

specified in paragraph (a)(4) of this section.

[FR Doc. 95-6003 Filed 3-20-95; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 799

[OPPTS-42180; FRL 4935-4]

RIN 2070-AB07

#### Testing Consent Order for Tertiary Amyl Methyl Ether

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final Consent Agreement and Order.

**SUMMARY:** EPA has issued a Testing Consent Order that incorporates an Enforceable Consent Agreement (ECA) pursuant to the Toxic Substances Control Act (TSCA) with members of the TAME Producers Group comprised of the following companies: Amerada Hess Corporation, Chevron U.S.A. Products Company, Citgo Petroleum, Exxon Company U.S.A., and Texaco Refining and Marketing (the Consortium) who have agreed to perform certain health effects tests with tertiary-amyl methyl ether (CAS No. 994-05-8) (TAME). This document summarizes the ECA and adds TAME to the list of chemical substances and mixtures subject to ECAs. Accordingly, export notification requirements apply to TAME.

**EFFECTIVE DATE:** March 21, 1995.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551. Technical contact: Gary Timm (202) 260-7335.

**SUPPLEMENTARY INFORMATION:** This document amends 40 CFR 799.5000 by adding TAME to the list of chemical substances and mixtures subject to ECAs and export notification requirements.

#### I. Background

The Clean Air Act (42 U.S.C. 7401-7671q) provides that beginning on November 1, 1992, gasoline containing at least 2.7 percent oxygen by weight is required to be used in the wintertime in 39 areas of the county which failed to comply with the carbon monoxide (CO)

National Ambient Air Quality Standard. Carbon monoxide pollution is caused by incomplete burning of fuels used in internal combustion engines and is generally more severe during cold winter temperatures. Tests have shown that the use of oxygenates in gasoline can reduce CO emissions by 15 to 20 percent (Emission Reduction and Cost Effectiveness of Oxygenated Gasolines. Environmental Protection Agency. June, 3 1991). Methyl tertiary-butyl ether (MTBE) and ethanol are the primary oxygenates used in the oxygenated gasoline program.

MTBE was recommended for health effects testing by the Interagency Testing Committee in its 19th report because of its rapidly growing use as a fuel additive. EPA negotiated an ECA with the Oxygenated Fuel Producers for comprehensive health effects testing in 1988 (53 FR 10391, March 31, 1988). Despite this extensive testing program and experience using MTBE as a gasoline additive, acute health concerns were raised in Alaska and Missoula, MT after MTBE's introduction to these areas in November, 1992. Additional research was conducted by EPA, the American Petroleum Institute (API), and the Oxygenated Fuels Association to address the concerns raised by the citizens of Alaska and assist policy decision making for the next oxyfuel season. These studies, including human exposures, failed to confirm MTBE as the source of the human health complaints.

A meeting between the Federal Government, State of Alaska, and industry to plan additional research on the oxyfuels was held in December, 1993. This group also recommended that baseline toxicity testing information be developed for both ethyl tertiary-butyl ether (ETBE) and TAME, widely seen as possible substitutes for MTBE, to compare their toxic potential with that of MTBE. The research planning workshop recommended the following tests for ETBE and TAME: 1st tier genotoxicity, 90-day inhalation subchronic, neurotoxicity developmental toxicity, reproductive effects pharmacokinetics.

On March 1, 1994, EPA's Office of Mobile Sources requested that the Office of Pollution Prevention and Toxics develop these data under section 4 of the Toxic Substances Control Act (TSCA).

#### II. Enforceable Consent Agreement Negotiations

EPA sent letters to approximately 50 individuals in the petroleum and oxyfuel-related industries announcing the addition of ETBE and TAME to EPA's Master Testing List and EPA's interest in pursuing a testing program under an ECA. On March 9, 1994, API indicated that the industry had agreed to form a testing panel under API auspices to develop and present a testing proposal to EPA on ETBE and TAME. On April 18, 1994, EPA published a notice in the **Federal Register** inviting manufacturers and processors of ETBE and TAME and other interested persons to participate in ECA negotiations on these substances and announced that a public meeting would be held on May 9, 1994.

On behalf of the Consortium, API submitted proposals for testing ETBE and TAME in April. At the May 9 meeting, API stated that there was support among Consortium members to conduct testing of TAME, but not ETBE. The chief difference between the EPA and Consortium positions on testing TAME was the design of the reproductive effects and fertility study. The Consortium proposed only a one-generation study as opposed to the two-generation study recommended by EPA. This issue was resolved in a conference call on July 28, 1994, with the Consortium agreeing to conduct the two-generation study. Members of the Consortium signed an ECA for the testing of TAME in January, 1995; EPA signed the ECA in February, 1995.

Regarding ETBE, after appropriate notification of interested persons, EPA held a public meeting on July 14, 1994, to discuss the development of an ECA for this substance. At that meeting, ARCO, the only current or potential producer in attendance, stated that it had conducted screening tests for mutagenicity but that the company had decided not to enter into an ECA with EPA to conduct additional testing. ETBE thus remains on EPA's Master Testing List in a queue for rulemaking under TSCA section 4.

#### III. TAME Testing Program

Table I describes the tests, the test standards and reporting requirements for TAME under the ECA. This testing program will allow EPA to better characterize the potential health hazards resulting from exposure to TAME.

TABLE I.— REQUIRED TESTING, TEST STANDARDS AND REPORTING REQUIREMENTS FOR TAME

Description of Tests	Test Standard <sup>1</sup>	Deadline for Final Report <sup>2</sup>	Interim Reports Required <sup>3</sup>
Pharmacokinetics (Inhalation, rats and mice) .....	795.230 (Appendix I)	20	3
90-Day Subchronic (Inhalation, rats and mice) .....	798.2450 Amended to include mitogenesis, special staining and immunochemistry (Appendix II)	18	2
Neurotoxicity Screen .....	795.247 (Appendix III)	20	3
Mutagenicity: CHO HGPRT .....	798.5300 (Appendix)	15	2
Mutagenicity: Chromosomal aberrations .....	798.5375 (Appendix)	15	2
Reproduction and Fertility (Inhalation, rats) .....	OPPTS 870.3800	30	5
Developmental toxicity (Inhalation, rats and mice) .....	OPPTS 870.3700	15	2

<sup>1</sup>Citation is to 40 CFR unless otherwise noted. The OPPTS 870 series guidelines are available from EPA but have not been published.

<sup>2</sup> Number of months after the effective date of the consent order.

<sup>3</sup> Interim reports are required every 6 months from the effective date until the final report is submitted. This column shows the number of interim reports required for each test.

**IV. Export Notification**

The issuance of the ECA and Order subjects any persons who export or intend to export the chemical substance TAME (CAS No. 994-05-8), of any purity, to the export notification requirements of section 12(b) of TSCA and the regulations promulgated pursuant to it at 40 CFR part 707. The listing of the chemical substance or mixture at 40 CFR 799.5000 serves as a notification to persons who intend to export such a chemical substance or mixture that the substance or mixture is the subject of an ECA and Order and 40 CFR part 707 applies.

**V. Rulemaking Record**

EPA has established a record for this ECA and Order under docket number OPPTS-52098, which is available for inspection Monday through Friday, excluding legal holidays, in Rm. NE B607, 401 M St., SW., Washington, DC., 20460 from 1 p.m. to 4 p.m.

Confidential Business Information (CBI), while part of the record, is not available for public review. This record contains the basic information considered in developing this ECA and Order, and includes the following information:

(1) Testing Consent Order for TAME with incorporated Enforceable Consent Agreement and associated testing protocols attached as appendices.

(2) **Federal Register** notice announcing the opportunity to initiate Negotiations for a TSCA Section 4 Testing ECA (April 18, 1994; 59 FR 18399).

(3) Communications consisting of:

- (a) Written Letters.
- (b) Contact reports of telephone summaries.
- (c) Meeting summaries.
- (4) Reports -published and unpublished factual materials.

**List of Subjects in 40 CFR Part 799**

Chemicals, Chemical export, Environmental protection, Hazardous

substances, Health effects, Laboratories, Reporting and recordkeeping requirements, Testing.

Dated: March 7, 1995.

**Lynn R. Goldman,**

*Assistant Administrator for Prevention, Pesticides and Toxic Substances.*

Therefore, 40 CFR part 799 is amended as follows:

**PART 799—[AMENDED]**

1. The authority citation for part 799 continues to read as follows:

**Authority:** 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding tertiary-amyl methyl ether (TAME) to the table in CAS Number order, to read as follows:

**§799.5000 Testing consent agreements for substances and mixtures with Chemical Abstract Service Registry Numbers.**

\* \* \* \* \*

CAS Number	Substance or mixture name	Testing	FR Publication Date
* 994-05-8 *	Tertiary-amyl methyl ether .....	Health effects .....	March 21, 1995.
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[FR Doc. 95-6766 Filed 3-20-95; 8:45 am]  
BILLING CODE 6560-50-F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 672 and 675

[Docket No. 95022357-5057-01; I.D. 120594A]

RIN 0648-AG95

#### Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Pacific Halibut Bycatch

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; final 1995 specification of Pacific halibut bycatch allowances; change of effective date.

**SUMMARY:** On March 6, 1995, NMFS published a final rule that authorizes NMFS to determine annually whether to apportion a Pacific halibut bycatch allowance to the Bering Sea and Aleutian Islands management area (BSAI) or Gulf of Alaska (GOA) hook-and-line gear fisheries for sablefish, or to exempt these fisheries from halibut bycatch restrictions. Final 1995 halibut bycatch allowances also were specified for the BSAI nontrawl fisheries and GOA hook-and-line gear fisheries that exempted the sablefish hook-and-line gear fisheries from halibut bycatch restrictions. NMFS is changing the effective date of a portion of the final rule from April 3, 1995, to March 15, 1995, to avoid a closure of the GOA sablefish Individual Fishing Quota (IFQ) fishery when it opens on March 15.

**EFFECTIVE DATE:** Section 672.20(f)(1)(ii) and (f)(3)(ii) of the final rule published March 6, 1995, at 60 FR 12149, are effective March 15, 1995; the remaining portion of the final rule which amends § 675.21 will be effective, April 15, 1995.

**FOR FURTHER INFORMATION CONTACT:** Susan Salvesson, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS published a final rule in the **Federal Register** (60 FR 12149, March 6, 1995) that revises the management of the halibut bycatch limits established for the GOA hook-and-line gear groundfish fisheries and the BSAI nontrawl fisheries. The final rule is scheduled to become effective April 3, 1995, and authorizes the exemption of the GOA and BSAI hook-and-line gear sablefish

fisheries from halibut bycatch restrictions to support the new sablefish/halibut IFQ program. The final rule also addresses concern about the potential closure of the BSAI jig gear fishery due to halibut bycatch in other nontrawl fisheries and allows for the management of the seasonal apportionment of the halibut bycatch allowances annually specified for the BSAI Pacific cod hook-and-line gear fishery consistent with the management of the amount of Pacific cod total allowable catch allocated to this fishery. Final 1995 specifications of halibut bycatch allowances were published with the final rule that exempted the GOA and BSAI hook-and-line sablefish fisheries and the BSAI jig gear fishery from halibut bycatch restrictions. The effective date of the final rule was established as the date 30 days after publication in the **Federal Register**, or April 3, 1995.

The 1995 sablefish/halibut IFQ fishery is scheduled to open on March 15, 1995 (60 FR 12152, March 6, 1995). Halibut bycatch mortality in the GOA Pacific cod hook-and-line gear fishery has accrued at a rate higher than anticipated and will reach the first seasonal bycatch mortality allowance currently specified for all GOA hook-and-line gear fisheries (60 FR 8476, February 14, 1995) before the final rule becomes effective on April 3, 1995. As a result, the sablefish IFQ fishery would be closed until this date when the exemption of this fishery from halibut bycatch restrictions becomes effective. NMFS has determined that the closure of the sablefish IFQ fishery due to halibut bycatch in the Pacific cod fishery imposes an unnecessary restriction on the IFQ fishery and directly counters the intent of the final rule and associated 1995 final specifications of halibut bycatch allowances. Therefore, NMFS is waiving a portion of the 30-day delayed effective period so that the final rule authorizing the exemption of the GOA sablefish IFQ fishery from halibut bycatch restrictions becomes effective on March 15, 1995, when the sablefish IFQ fishery opens.

#### Classification

Implementation of § 672.20(f)(1)(ii) and (f)(3)(ii) of the final rule published in the **Federal Register** March 6, 1995 (60 FR 12149) in a timely manner will avoid an unnecessary closure of the GOA sablefish IFQ fishery. Since implementation of these provisions will relieve a restriction, a 30-day delay in the effective date is not required under 5 U.S.C. 553(d)(1). Therefore, the effective date of the portion of the final rule and associated final 1995

specifications that authorize the exemption of the GOA sablefish IFQ fishery from 1995 halibut bycatch restrictions is changed to March 15, 1995.

This action modifies the effective dates of a final rule that is exempt from review under E.O. 12866.

Dated: March 15, 1995.

**Gary Matlock,**

*Program Management Officer, National Marine Fisheries Service.*

[FR Doc. 95-6845 Filed 3-15-95; 4:29 pm]

BILLING CODE 3510-22-F

#### 50 CFR Part 675

[Docket No. 950206040-5040-01; 031495A]

#### Groundfish of the Bering Sea and Aleutian Islands Area; Trawl Rockfish Fishery

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is closing the directed fishery for species in the rockfish fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal bycatch allowance of Pacific halibut apportioned to the trawl rockfish fishery category in the BSAI.

**EFFECTIVE DATE:** 12 noon, Alaska local time (A.l.t.), March 15, 1995, until 12 noon, A.l.t., April 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** Michael L. Sloan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The first seasonal bycatch allowance of Pacific halibut for the BSAI trawl rockfish fishery category, which is defined at § 675.21(b)(1)(iii)(D), was established as 30 metric tons by the final initial 1995 specifications for groundfish (60 FR 8479, February 14, 1995).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the first seasonal bycatch allowance of Pacific halibut